IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.2345 OF 2005

Sangeeta L. Gupta. .. .. Petitioner
v/s.
The State & ors. .. .. Respondents

Mr.Shaikh N.M. i/by O.P. Singh for petitioner.
Ms.Mugdha M. Jadhav, AGP for res.No.1.
Mr.Surel shah for res.Nos.5 and 6.
Miss Aruna Savla for res.Nos.2 to 4.

CORAM : H.L. GOKHALE &
S.R. DONGAONKAR, JJ.

DATED : 6th March 2006

P.C. :

1. The petitioner claims to have joined the primary school run by respondent Nos.5 and 6 on 22nd October 2001. But her case is that she was prevented from continuing from 9th August 2004. The Petition seeks a declaration that the petitioner is an Assistant Teacher in that school and also prays for the salary from 22nd October 2001. The Management of the concerned school is presently looked after by one Mr.Umesh Pratap Singh, Secretary of respondent No.6. The present Management has taken over charge on 7th December 2003 and it is the case of the present Management that the petitioner was not so working.

2. Mr.Shah appearing for the present

Management makes a grievance that the then Headmistress one Shantidevi Dubey, who retired at the end of October 2001 appointed the petitioner just prior thereto and that her appointment was not made by the Management Committee as it then existed.

3. In any case since this is a primary school it is under the jurisdiction of the Education Officer of the Municipal Corporation. Prayer (aaa) of the Petition seeks a direction to respondent Nos.5 and 6 to forward the proposal of the petitioner both for the post of Shiksan Sevak as well as for absorption of the Assistant Teacher to respondent Nos.3 and 4 for a decision.

4. Ms.Savla appearing for the Municipal Corporation informs that it would be respondent No.4-Education Officer who will have to take the decision. She has, however, pointed out the letters sent by the Municipal Corporation on the complaints received from the petitioner. She has drawn our attention to the letters dated 12th August 2004, 9th September 2004, and 28th April 2005 asking respondent Nos.5 and 6 to submit the proposal in that behalf in the prescribed form. This proposal was to be forwarded for the post of

Shikshan Sevak. It is material to note that the letter dated 9th September 2004 asked the school Management to submit the proposal of the petitioner and other eligible teachers who are appointed in the school during the period mentioned in the Municipal Corporation's Circular dated 25th March 2004.

5. Mr.Shah appearing for the school Management is averse to forward any such proposal and according to him, the appointment of the petitioner itself was illegal. However, in deference to the suggestion coming from the Court, he has taken instructions from Mr.Umesh Pratap Singh, Secretary of the school Management who is present in Court and without prejudice to the submissions of the school Management as above, he states that the school Management will forward the proposal placing all the records before the Education Officer. It will be open to the school Management to point out as to why the petitioner is not entitled to become Shikshan Sevak. It will also be open to the school Management to point out what is the present strength of the teachers in the school and whether any posts are available for absorption. They will, however, fully co-operate with the Education Officer with respect to

whatever queries that he may raise in that behalf. Mr.Shah states that the proposal will be sent within four weeks. We expect the proposal to be sent by end of March 2006 and the Education Officer will call the parties i.e. the petitioner and the Secretary of the school Management for a hearing, peruse all the records and then decide whether the petitioner is eligible to be recognised as a Shikshan Sevak and if so, from what date. The decision will be taken within three months after receiving the proposal.

6. Petition stands disposed of with the above order.

(H.L. GOKHALE, J.)

(S.R. DONGAONKAR, J.)